

97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } No. 97-221

INTELLIGENCE IDENTITIES PROTECTION ACT

SEPTEMBER 10, 1981.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. BOLAND, from the Permanent Select Committee on Intelligence, submitted the following

REPORT

together with

SEPARATE VIEWS

[To accompany H.R. 4]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 4) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources, having considered the same report favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That is Act may be cited as the "Intelligence Identities Protection Act".

Sec. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

"DISCLOSURE OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

"Sec. 601. (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

"(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information

fies someone as a covert agent. An identification is not direct and immediate if it can be made only after an effort to seek out and compare, cross-reference, and collate information from several publications or sources.

Section 602(b) (1) and (2) insure that a prosecution cannot be maintained under section 601 (a), (b), or (c), upon theories of aiding and abetting, misprision of a felony, or conspiracy, against an individual who does not actually disclose information unless the government can prove the "in the course of an effort" and the intent elements which are part of the substantive offense of section 601(c) or that the defendant has authorized access to classified information. A reporter to whom is leaked, illegally, the identity of a covert agent by a person prosecutable under section 601 (a) or (b) would most likely not possess the necessary intent or be engaging in the requisite course of conduct.

Section 602(c) is intended to make clear that disclosures made directly to the House or Senate Intelligence Committees are not criminal offenses.

SECTION 603—PROCEDURES FOR ESTABLISHING COVER FOR INTELLIGENCE OFFICERS AND EMPLOYEES

Section 603 requires the President to establish procedures to ensure that undercover intelligence officers and employees receive effective cover. To this end, the section also stipulates that the procedures shall provide that those departments and agencies of the government designated by the President to provide assistance for cover arrangements shall provide whatever assistance the President deems necessary to effectively maintain the secrecy of such officers and employees.

This provision of the bill does not require the President to do anything not now being done about intelligence cover arrangements. It does not stipulate which elements of government shall provide assistance or what that assistance must be. It requires only that the President of the United States review these questions and determine the appropriate interest of the United States. In so doing, the provision recognizes the fact that only the President has the authority and duty to truly resolve this question and only he will have the requisite detachment to make a decision that can result in the adequate provision of cover to undercover intelligence operations.

The Committee notes that since what is now Sec. 603 was first adopted in the 96th Congress, concern has been expressed that it may be used to require the Peace Corps to provide cover for intelligence purposes. This is not the intent of the Committee, which agrees with the decision of successive administrations not to use the Peace Corps for any foreign intelligence purpose. The Committee also agrees that it is important to assure people throughout the world that this policy continues unchanged so that confidence in the Peace Corps remains high.

Further, the Committee is aware that the intelligence community neither seeks nor would support the use of the Peace Corps in this fashion.

This is documented by a recent letter from the Honorable William J. Casey, Director of Central Intelligence, to the Honorable Loret Miller Ruppe, Director of the Peace Corps, which reads as follows:

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ce Corps, which reads as follows:

DEAR MRS. RUPPE: Your letter of June 25, 1981, requested my views regarding policies governing cover relationships between CIA and the Peace Corps in connection with S. 391, the Intelligence Identities Protection Act, which will be considered by the Senate Judiciary Committee soon. Companion legislation, H.R. 4, is also pending in the House.

I understand that you are concerned with a provision in that proposed legislation that would require departments and agencies of the government designated by the President to provide assistance for cover arrangements to provide whatever assistance the President deems necessary to effectively maintain the secrecy of intelligence officers and employees. This language does not mandate that the Peace Corps or any other particular agency provide cover for intelligence personnel. Moreover, I do not advocate and would oppose any designation of the Peace Corps as an agency required to provide cover support. For these reasons, I am sure that you will agree that there is no need for a specific statutory exclusion of the Peace Corps from the cover provision of the proposed bill. Moreover, such a proposed amendment would be misleading for it would suggest that CIA desires to change its policy in this regard.

I can assure you that I have no intention of seeking to use the Peace Corps to provide cover for clandestine intelligence collection conducted by Central Intelligence Agency personnel. I certainly do not intend to change the long-standing CIA policy barring such use of the Peace Corps, which is reflected in existing regulations.

Thank you for the opportunity to express my views. I hope that I have reassured you regarding CIA intentions. If you have any specific questions whatsoever regarding our policies, my General Counsel, Mr. Stanley Sporkin, will be happy to answer them. I look forward to an amicable relationship with you in the future.

Sincerely,

WILLIAM J. CASEY.

It is the Committee's belief that, based on the assurances of the Director of Central Intelligence, the President will not suggest any change in the traditional distance which has separated the Peace Corps and intelligence operations.

Nevertheless, should the intelligence community contemplate a change in this policy at any time in the future, the Committee would consider such a contemplated change to be a "significant anticipated intelligence activity" which must, under law, be reported to the Committee before it is implemented. The Committee would question seriously any such change of policy.

Section 603(b) excepts the mandated regulations from any requirement for public disclosure. In lieu of such disclosure, the Committee expects the regulations to be made available to the House and Senate Intelligence Committee. The Committee would also note that it is not its intent that section 603 be interpreted to require or suggest that existing public regulations concerning use of clerics, academics and media for cover be made secret.